

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Molly Thomas,)	Case No: 9:22-cv-04038-BHH
)	
Plaintiff,)	
)	COMPLAINT
vs.)	(Jury)
)	
Kelly Caron, individually, and Kelly)	(Fair Labor Standards Act)
Caron Designs, LLC,)	
)	
Defendants.)	
)	

JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of the County of Beaufort, State of South Carolina.
2. Defendant Kelly Caron (Defendant Caron) is a resident of Beaufort County.
3. Defendant Kelly Caron Designs, LLC is a South Carolina LLC doing business and maintaining offices in Beaufort County, South Carolina.
4. All actions pertinent to the allegations in this Complaint took place in Beaufort County.
5. Jurisdiction and venue is proper in this Court.

FACTS

6. Defendant Caron is the President of Kelly Caron Designs, LLC and was responsible for determining and paying Plaintiff's wages during the time Plaintiff worked for Kelly Caron Designs, LLC.

7. Defendant Caron is involved in the day to day operations of Defendant Kelly Caron Designs, LLC.

8. Defendant Caron was directly responsible for the supervision of Plaintiff during Plaintiff's employment with Defendant Kelly Caron Designs, LLC.

9. Plaintiff was employed by Defendant Kelly Caron Designs, LLC at various times as a project coordinator, design assistant, and creative design director.

10. Plaintiff was initially hired by Defendants as a project coordinator in August of 2020 and paid \$26.00 per hour.

11. Plaintiff has no advanced degree; she has a bachelor of arts degree in marketing.

12. Plaintiff supervised no one when she was a project coordinator.

13. The position of project coordinator is a non-exempt position under the Fair Labor Standards Act (FLSA).

14. As a project coordinator, Plaintiff's overtime pay rate was \$39.00 per hour.

15. Plaintiff's payroll records indicate that, as a project coordinator, Plaintiff worked 49 hours overtime in 2020.

16. Defendants paid Plaintiff straight time instead of time and a half for the 49 hours of overtime Plaintiff worked in 2020, so Plaintiff is owed \$637.00 (\$13.00 x 49 hours) for work performed each week in excess of 40 hours.

17. The first 23 weeks of 2021, Plaintiff continued to work as a project coordinator and continued being paid \$26.00 per hour.

18. During the first 23 weeks of 2021, Plaintiff worked 200 hours of overtime, per Defendants' pay roll records.

19. For the first 23 weeks of 2020, Plaintiff is owed \$2,600.00 (\$13.00 x 200 hours).

20. Plaintiff received a wage increase mid-2021 and began making \$30.00 per hour.

21. Plaintiff was given the title of design assistant, but Plaintiff still supervised no one, and she was one of several design assistants working for Defendants at the time.

22. The position of design assistant is a non-exempt position under the FLSA.

23. For the remainder of 2021, Plaintiff's overtime rate was \$45.00 per hour but Plaintiff was only paid \$30.00 when she worked more than 40 hours each week.

24. For the remainder of 2021, Defendants' payroll records indicate Plaintiff worked 1,408 hours overtime as a design assistant.

25. As a design assistant, Plaintiff was only paid straight time for the hours she worked in excess of 40 each week, so she is owed \$21,120.00 (\$15.00 x 1,408 hours) overtime pay for the second half of 2021.

26. In January of 2022, Plaintiff's wages were increased to \$35.00 and her title was changed to creative design director.

27. As of January 2022, Plaintiff's overtime rate was \$52.50.

28. The position of creative design director was a non-exempt position under the FLSA as acknowledged by Defendants when for the first time Defendants began paying Plaintiff the correct amount of overtime on September 1, 2022.

29. However, from January 2022 to September 1, 2022, Plaintiff was only paid straight time for all hours she worked over 40 each week rather than an additional \$17.70 for each hour of overtime she worked.

30. From January 2022 until September 1, 2022, Plaintiff worked 534.52 hours overtime and is owed an additional \$9,354.00 (\$17.50 x 534.5 hours).

31. On September 1, 2022, Defendants began paying Plaintiff the correct amount of overtime wages.

32. On information and belief, Defendants calculated overtime on the basis of a fluctuating work week.

33. On and after September 1, 2022, Plaintiff was not informed how her overtime was being calculated and Plaintiff never knew she would be paid overtime on the basis of a fluctuating work week.

34. The total unpaid overtime wages owed to Plaintiff prior to September 1, 2022 is \$33,729.00.

35. Under the FLSA, liquidated damages are mandatory and Plaintiff is entitled to double the wages she is owed, or \$67,458.00.

FIRST CAUSE OF ACTION

(FLSA Wage and Overtime Violations, 29 U.S.C. §§ 201 *et seq*)

36. Plaintiff realleges and incorporates by reference the allegations contained in the forgoing paragraphs.

37. Defendants were aware Plaintiff worked in excess of forty (40) hours per week as they regularly documented that fact on their payroll records.

38. Until September 1, 2022, Defendants regularly failed to pay Plaintiff for time worked in excess of forty (40) hours per week at the rate of time and a half, as required by the FLSA.

39. Plaintiff is owed approximately \$67,458.00, including liquidated damages, in overtime due to Defendants' violation of the Fair Labor Standards Act (FLSA). Plaintiff is additionally owed attorney fees and costs and pre and post judgment interest.

WHEREFORE, having fully stated her Complaint against Defendants, Plaintiff seeks back unpaid wages, liquidated damages, prejudgment interest, attorney fees, costs, and such other legal and equitable relief as this Court deems just and proper against both Defendants severally and jointly.

BLOODGOOD & SANDERS, L.L.C.

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